



SUPERIOR COURT OF THE STATE OF CALIFORNIA
County of Kings
1426 South Drive, Hanford, CA 93230
(559) 582-1010

THERE WILL BE ABSOLUTELY NO REFUNDS OR EXCHANGES ON
THE PURCHASE OF SUPERIOR COURT FORMS OR PACKETS

Unlawful Detainer
Packet Purchase Price: \$10.00

Landlords must follow all of California's state laws and any applicable local laws. They must take certain steps to evict a tenant.

A way to do this is to have an Unlawful Detainer proceeding. A landlord can regain possession of the property, if a tenant is staying there against the law.

This packet should only be used for a legal owner evicting a person from rental property.

This packet should not be construed as legal advice. It does not cover all evictions. A property owner with peculiar problems or questions should seek competent legal counsel.

Some assistance may be obtained from:

- ☒ **Kings County Superior Court** web site at www.kings.courts.ca.gov.
- ☒ **Self-Help Center** located online at www.courtinfo.ca.gov. Judicial Council forms of California can be accessed, filled in, and printed at this web site.
- ☒ For definitions of codes of civil procedures, civil codes, etc. the official California Legislative information website www.leginfo.ca.gov

Filing fees:

Amount demanding is less than \$ 10,000.....	\$ 195.00
Amount demanding is over \$ 10,000 less than \$ 25,000.....	\$ 315.00
Amount demanding is over \$ 25,000.....	\$ 320.00

Post Judgment fees:

Writ of Possession.....	\$ 15.00
Writ of Execution.....	\$ 15.00

UNLAWFUL DETAINER

(INSTRUCTIONS FOR THE PLAINTIFF)

7 STEPS:

STEP 1. SERVING NOTICE TO THE TENANT(S)



**STEP 2. COMPLETING THE UNLAWFUL DETAINER PAPERWORK AND
FILING THE FORMS WITH THE CLERK'S OFFICE**



STEP 3. SERVING THE DOCUMENTS



STEP 4. FILING THE PROOF OF SERVICE



STEP 5. IF THE TENANT FAILS TO RESPOND



**STEP 6. IF THE TENANT RESPONDS, BOTH PARTIES HAVE A RIGHT
TO A COURT TRIAL**

STEP 1. SERVING NOTICE TO THE TENANT(S).

Before the landlord can bring court action to evict the tenant(s), the tenant(s) must have been properly (officially) served with a **3-day Notice to Quit**, **3-day Notice to Pay Rent or Quit** or **30-day/60-day Notice to Terminate Tenancy**, and failed to obey the notice.

- **3-day Notice to Quit** (tenant has broken rental agreement)
- **3-day Notice to Pay Rent or Quit** (tenant is behind in the rent)
- **30-day Notice to Terminate Tenancy** (tenant has not broken the lease and lived on the property under a year)

THE FOLLOWING FORMS ARE INCLUDED IN THIS PACKET:

FORM NUMBER	FORM NAME	Last revised on:	# of pages:
Local form served prior to opening a case:			
Local form	Three Day Notice to Pay Rent or Quit		1
Form completed and attached to the Complaint upon opening a case:			
Local form	Proof of Service of a Three Day Notice to Pay Rent or Quit		1
Forms used to open a case:			
CM010	Civil Case Cover Sheet	01-01-07	2
UD100	Complaint – Unlawful Detainer	07-01-05	3
SUM130	Summons – Unlawful Detainer-Eviction	01-01-04	2
Form completed after Service of Summons:			
POS010	Proof of Service of Summons (two blank forms provided)	01-01-07	2
Forms served blank:			
UD105	Answer – Unlawful Detainer (served blank on each defendant) (two blank forms provided)	01-01-07	2
CP10.5	Prejudgment Right of Claim to Possession (per CCP 415.46- this form must be served by a licensed process server or sheriff to all named parties and all unknown occupants)	01-01-91	2
Forms used after service time has expired and no answer was filed:			
CIV100	Request for Entry of Default	01-01-07	2
UD116	Declaration for Default Judgment by Court	07-01-03	3
UD110	Judgment – Unlawful Detainer	01-01-03	2
EJ130	Writ of Execution / Possession	01-01-06	2
Form used when an Answer is filed:			
UD150	Request/Counter-Request to Set Case for Trial (Unlawful Detainer)	01-01-05	2

All pleadings and papers must be TYPED or LEGIBLY HANDWRITTEN in blue or black ink.

STEP 2. COMPLETING THE UNLAWFUL DETAINER PAPERWORK AND FILING THE FORMS WITH THE CLERK'S OFFICE

Complete the following forms:

- **Civil Case Coversheet**, Form CM010, (2 pages)
- **Complaint – Unlawful Detainer**, Form UD100, (3 pages)
- **Summons – Unlawful Detainer**, Form SUM-130, (2 pages)
- **Answer – Unlawful Detainer**, Form UD105, (2 pages). Leave this form blank – it will be served on each defendant. This form will be stamped with case number and be returned to you.
- (optional) **Prejudgment Right of Claim to Possession**, Form CP10.5, (2 pages). Leave this form blank – if you choose to include this with the service of the Summons and Complaint it must be served on the defendants and all unknown occupants by a **licensed process server or sheriff** (see CCP 415.46 for special service instructions). This form will be stamped with case number and be returned to you.

AFTER COMPLETING THE FORMS YOU MUST ASSEMBLE YOUR PAPERWORK PRIOR TO BRINGING THEM TO THE CLERK'S OFFICE.

The Court will require the same adherence to all of the laws of the State and California Rules of Court, as if you were represented by an attorney.

Clerk personnel are not permitted to, nor will they give legal advice or help in completing any form. *Please do not ask our clerks to give you legal assistance or advice.* The Clerk of the Court and his deputies are prohibited by law from rendering legal assistance or advice in court proceedings (Sec. 24004 & 68082 Gov. code). Persons appearing in their own behalf are responsible for preparing and presenting their pleadings in complete and proper form without legal assistance from deputies of the Superior Court Clerk's office.

Questions pertaining to legal matters or the proper completion of the appropriate forms should be answered by an attorney.

HOW MANY COPIES DO I MAKE?

Make one complete set for your records.

Make two complete sets for each named defendant. The extra set may be used if substitute service is performed.

WHAT HAPPENS TO MY DOCUMENTS WHEN I SUBMIT THEM TO THE CLERK'S OFFICE?

The court will keep the originals and open an Unlawful Detainer case. You will then be asked to pay the court's filing fee (which can be paid by cash or check).

The "Endorsed-Filed" copies will be returned to you.

STEP 3. SERVING THE DOCUMENTS

These documents must be served by someone other than you, who is over 18, and is not a party to the action (such as a neighbor, process server, sheriff, etc.)

STEP 4. FILING THE PROOF OF SERVICE

HAVE THE PROCESS SERVER COMPLETE THE “PROOF OF SERVICE” FORM:

The person who serves the documents must fill out and sign the Proof of Service form (POS-010), listing every document that was served (including the blank forms). Make a copy and submit the original and the copy to the Clerk’s Office. The copy will be stamped and returned to you for your records.

Form POS-010, **Proof of Service of Summons** (2 pages)

- A separate proof of service for each defendant must be submitted.
- If the defendant is served by substitute service, a copy must also be mailed. A separate declaration of diligence is also required to be filed. You can request a Declaration form at the Clerk’s office.

Note: the court requires three service attempts to be made on three separate days at separate times.

STEP 5. IF THE TENANT FAILS TO RESPOND

(CCP 1167)

If personal service is performed: the tenant has five (5) days after being served with the Summons and Complaint to vacate (leave) the property or to file an Answer with the court.

If the tenant is served by substitute service: the tenant has five (5) days plus an additional ten (10) days from the date of mailing to vacate (leave) the property or to file an Answer with the court (CCP 415.20(b)) this is a total of 15 days.

(CCP 415.46)

Prejudgment claim service- In order to include “all occupants” on the Judgment and Writ the following must be included:

1. The Prejudgment Claim should be listed as being served to each named defendant.
2. A separate proof of service for “**All other occupants**” or “**All other tenants**” must be filed to state the following:
 - a. may **only be served by:** a marshal, sheriff, or registered process server. A private party may not serve it.
 - b. posted at residence and
 - c. mailed to “**All other occupants**” or “**All other tenants**”

IF THE TENANT FAILS TO RESPOND, THE PLAINTIFF MAY REQUEST A DEFAULT JUDGMENT:

1. A Request for Clerk’s Judgment (possession of the premises only).
 - a. Form CIV100 – **Request for Entry of Default** and Clerk’s Judgment
 - b. Form UD110 – **Judgment-Unlawful Detainer**
 - c. The benefit of a Clerk’s Judgment is that it will be processed immediately, allowing you to issue your writ that day. A Court Judgment can be submitted at a later date, for monetary judgment, if necessary.

2. A Request for Court Judgment (possession of the premises as well as a monetary judgment):
 - a. Form CIV100 – **Request for Entry of Default** and Court Judgment
 - b. Form UD 116– **Declaration for Default Judgment by Court**
 - c. Form UD110 – **Judgment-Unlawful Detainer**
 - d. A Court Judgment will have to be submitted to a Judicial Officer for review and signature, before a writ can be issued.

UPON RECEIVING JUDGMENT, THE PLAINTIFF MAY REQUEST A WRIT TO BE ISSUED FOR THE PROPERTY:

1. **Writ of Possession Real Property** Form EJ130
 - a. Fee for issuance \$15.00.
 - b. This is a non-monetary request.
 - c. The Sheriff's Department will post a *Notice to Vacate* on the property (an additional fee is required by the Sheriff for this service).
 - d. If the tenant fails to move out by the lockout date, the sheriff will take possession of the property.

UPON RECEIVING JUDGMENT THE PLAINTIFF MAY REQUEST A WRIT TO BE ISSUED FOR MONEY:

2. **Writ of Execution** Form EJ130
 - a. Fee for issuance \$15.00.
 - b. This is a monetary (money) request only, you can use this to attach wages, bank accounts, etc.

STEP 6. IF THE TENANT RESPONDS, BOTH PARTIES HAVE A RIGHT TO A COURT TRIAL

Both parties have the right to a court trial, although there will be no trial if a timely written response to the unlawful detainer complaint is not filed. To request a court trial, the requesting party must file an ***Request/Counter-Request to Set Case for Trial (Unlawful Detainer)*** (form UD150)

Upon filing the ***Request/Counter-Request to Set Case for Trial*** (form UD150), the court will hold it for 5 days, allowing the other party to file a ***Counter-Request to Set Case for Trial*** (form UD150). On the sixth day, the court will then set a trial date for no more than 20 days from the original filing date of the ***Request/Counter-Request to Set Case for Trial***. Any unavailable dates must be listed on your ***Request*** or ***Counter-Request to Set Case for Trial***.